

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.L.P..No. 620 of 2006()

CC.683/2001 of JUDICIAL FIRST CLASS MAGISTRATE COURT,NEDUMKANDOM
.....

PETITIONER/COMPLAINANT:

K.JOY, S/O.SCARIA,
AGED 48 YEARS, KUNNUVILA VEEDU,
COMBAYAR KARA, PARATHODE VILLAGE,
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

BY ADV. SRI.TOM JOSE

RESPONDENTS: ACCUSED & STATE

1. NAZEEMA NAZAR,
W/O.ABDUL K.NAZAR,
BLOCK NO.393, THOOKKUPALAM KARA,
PARATHODU VILLAGE, UDUMBANCHOLA TALUK.

2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.M.NAZAR-R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD
ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 620 OF 2006

Dated this the 22nd day of November, 2006

O R D E R

The petitioner filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 before the Judicial First Class Magistrate's Court, Nedumkandom alleging that Ext.P1 cheque issued by the first respondent in his favour towards repayment of an amount of Rs.1,80,000/- when presented to the bank for encashment was dishonoured due to insufficiency of funds in the account of the first respondent. On completing the statutory formalities, the petitioner filed the complaint.

2. After considering the evidence adduced by both sides, the trial court found that there was no evidence to prove that Ext.P1 cheque was signed by the first respondent. Disputing the signature in Ext.P1 cheque, the matter was referred to the handwriting expert who reported that the writings and signature contained in Ext.P1 cheque cannot be considered to be that of the first respondent. In the above circumstances, the trial court rightly found that the petitioner failed to prove the case against the first respondent. On an overall appreciation of the findings entered by the trial

court, this Court is of the view that the impugned judgment requires no interference.

Accordingly, leave to appeal is rejected.

(K.THANKAPPAN, JUDGE)

sp/